

DEP & REF
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Approved for use through 04/30/2003. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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| | | |
|---|------------------------|------------------|
| TRANSMITTAL FORM (to be used for all correspondence after initial filing) | Application Number | 09/919,471 |
| | Filing Date | July 27, 2001 |
| | First Named Inventor | L land F. WILSON |
| | Art Unit | 1617 |
| | Examiner Name | San Ming R. HUI |
| Commissioner for Patents | Attorney Docket Number | 9050-0053 |

| ENCLOSURES (Check all that apply) | | |
|--|--|---|
| <input checked="" type="checkbox"/> No fee due <input type="checkbox"/> Fee Transmittal <input checked="" type="checkbox"/> Fee(s) due <input type="checkbox"/> Fee Transmittal <input type="checkbox"/> Check for \$0 <input checked="" type="checkbox"/> Charge any underpayment or credit any overpayment to Deposit Account No. 18-0580 <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement & Form(s) PTO-1449 <input type="checkbox"/> Copy(ies) of cited reference(s) <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts / Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s): | <input type="checkbox"/> After Allowance Communication to a Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <u>Request for Refund; Utility Application Transmittal filed on July 27, 2001; Fee Transmittal filed on July 27, 2001; and Assignment to VIVUS Inc. filed on July 27, 2001.</u> |
| Remarks: | | |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT | | | | | |
|--|---------------------|-----------------------------------|--------|-----------|----------------|
| Name (print/type) | Karen Canaan | Registration No. (Attorney/Agent) | 42,382 | Telephone | (650) 330-0900 |
| Signature | <i>Karen Canaan</i> | | | Date | August 6, 2003 |

| CERTIFICATE OF TRANSMISSION/MAILING | | | |
|---|-----------------------------|------|----------------|
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 6, 2003. | | | |
| Name (print/type) | Margaret K. Surridge | | |
| Signature | <i>Margaret K. Surridge</i> | Date | August 6, 2003 |

US PATENT & TRADEMARK OFFICE
2003 AUG 15 PM 4:45
OFFICE OF FINANCE
REFUND BRANCH



PTO/SB/05 (08-00)

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Application Number

First Inventor

Leland F. Wilson

Title

As-Needed Administration of
Orally Active androgenic
Agents to Enhance Female
Sexual Desire and
Responsiveness

Attorney Docket Number

9050-0053

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO:

Commissioner for Patents
Box Patent Application
Washington, DC 20231

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. ☒ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☒ Specification [Total Pages 49 + Cover]
(preferred arrangement set forth below)
 - Descriptive title of the invention
 - Cross Reference to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to sequence listing, a table,
or a computer program listing appendix
 - Background of the Invention
 - Brief Summary of the Invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets]
5. ☒ Oath or Declaration [Total Pages 3]
 - a. ☐ Newly executed (original or copy)
 - b. ☐ Copy from a prior application (37 CFR 1.63(d))
(for continuation/divisional with Box 17 completed)
 - i. ☐ DELETION OF INVENTOR(S)
Signed statement attached deleting inventor(s)
named in the prior application, see 37 CFR
1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76
7. ☐ CD-ROM or CD-R in duplicate, large table or
Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission
(if applicable)
 - a. ☐ Computer Readable Form (CRF)
 - b. Specification Sequence Listing on:
 - i. ☐ CD-ROM or CD-R (2 copies); or
 - ii. ☐ paper
 - c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. ☒ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(b) Statement ☐ Power of Attorney
(when there is an assignee)
11. ☐ English Translation Document (if applicable)
12. ☒ Information Disclosure ☒ Copies of IDS
Statement (IDS)/PTO-1449 Citations
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. ☒ Other: Blanket Petition

17. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: _____
Prior application Information: Examiner: _____ Group / Art Unit: _____

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

I hereby certify that this paper or fee is deposited with the United States Postal Service "Express Mail Post Office to Addressee" fee under 37 CFR § 1.10 on the date indicated below and is addressed to the Commissioner for patents, Washington, DC 20231.

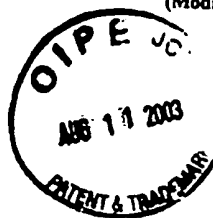
(Modified) PTO/SB/05 (12/97)

"Express Mail" Mailing Label No.: EL 910 406 708 US

Date of Deposit: July 27, 2001

Type/Printed Name of Person Mailing Paper or Fee: Sam Pen

Signature of Person Mailing Paper or Fee: [Signature]



FEE TRANSMITTAL

Note: Effective October 1, 1997.
Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT **\$981**

METHOD OF PAYMENT (check one)

1. ☒ The commissioner is hereby authorized to charge any additional fees and credit any overpayments to:
Deposit Account No.: 18-0580
Deposit Account Name: REED & ASSOCIATES
- Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 — Charge the Issue Fee set in 37 CFR 1.18 at the mailing of the Notice of Allowance

2. ☒ Payment Enclosed:
☒ Check ☐ Money Order ☐ Other

FEE CALCULATION

1. FILING FEE

| Large Fee Code | Entity Fee (\$) | Small Fee Code | Entity Fee (\$) | Fee Description | Fee Due |
|----------------|-----------------|----------------|-----------------|------------------------|---------|
| 101 | 710 | 201 | 355 | Utility filing fee | \$355 |
| 102 | 320 | 206 | 160 | Design filing fee | |
| 104 | 490 | 207 | 245 | Plant filing fee | |
| 109 | 710 | 208 | 355 | Reissue filing fee | |
| 110 | 150 | 214 | 75 | Provisional filing fee | |
| SUBTOTAL (1) | | | | | \$355 |

2. CLAIMS

| | | Fee from | | | | Fee Due |
|---------------------------|-----------|----------|-------|----|--|---------|
| | | Extra | below | | | |
| Total Claims | 54 - 20 = | 34 | X | 0 | | \$306 |
| Independent Claims | 10 - 3 = | 7 | X | 40 | | \$280 |
| Multiple Dependent Claims | | | X | | | |

| Large Fee Code | Entity Fee (\$) | Small Fee Code | Entity Fee (\$) | Fee Description | Fee Due |
|----------------|-----------------|----------------|-----------------|--|---------|
| 103 | 18 | 203 | 9 | Claims in excess of 20 | |
| 102 | 80 | 202 | 40 | Independent Claims in excess of 3 | |
| 104 | 270 | 204 | 135 | Multiple Dependent Claim | |
| 109 | 80 | 209 | 40 | Reissue independent claims over original patent | |
| 110 | 18 | 210 | 9 | Reissue claims in excess of and over original patent | |
| SUBTOTAL (2) | | | | | \$586 |

Complete if Known

| | |
|------------------------|------------------|
| Application Number | |
| Filing Date | Filed Herewith |
| First Named Inventor | Leland F. Wilson |
| Group Art Unit | Not Assigned Yet |
| Examiner Name | Not Assigned Yet |
| Attorney Docket Number | 9050-0053 |

FEE CALCULATION (continued)

3. ADDITIONAL FEES

| Larg e Fee Code | Entit y Fee (\$) | Small Fee Code | Entit y Fee (\$) | Fee Description | Fee Due |
|-----------------------------------|------------------|----------------|------------------|--|---------|
| 105 | 130 | 205 | 65 | Surcharge - late filing fee or oath | |
| 127 | 50 | 227 | 25 | Surcharge - late provisional filing fee or cover sheet | |
| 139 | 130 | 139 | 130 | Non-English specification | |
| 147 | 2,520 | 147 | 2,520 | For filing a request for reexamination | |
| 112 | 920* | 112 | 920* | Requesting publication of SIR prior to Examiner action | |
| 113 | 1,840 | 113 | 1,840 | Requesting publication of SIR after Examiner action | |
| 115 | 110 | 215 | 55 | Extension for reply within first month | |
| 116 | 390 | 216 | 195 | Extension for reply within second month | |
| 117 | 890 | 217 | 455 | Extension for reply within third month | |
| 118 | 1,390 | 218 | 695 | Extension for reply within fourth month | |
| 128 | 1,890 | 228 | 945 | Extension for reply within fifth month | |
| 119 | 310 | 219 | 155 | Notice of Appeal | |
| 120 | 310 | 220 | 155 | Filing a brief in support of an appeal | |
| 121 | 270 | 221 | 135 | Request for oral hearing | |
| 138 | 1,510 | 138 | 1,510 | Petition to institute a public use proceeding | |
| 140 | 110 | 240 | 55 | Petition to revive - unavoidable | |
| 141 | 1,240 | 241 | 620 | Petition to revive - unintentional | |
| 142 | 1,240 | 242 | 620 | Utility issue fee (or reissue) | |
| 143 | 440 | 243 | 220 | Design issue fee | |
| 144 | 600 | 244 | 300 | Plant issue fee | |
| 122 | 130 | 122 | 130 | Petitions to the Commissioner | |
| 123 | 50 | 123 | 50 | Petitions related to provisional applications | |
| 126 | 240 | 126 | 240 | Submissions of Information Disclosure Stmt | |
| 581 | 40 | 581 | 40 | Recording each patent assignment per property (times number of properties) | \$40 |
| 146 | 710 | 246 | 355 | Filing a submission after final rejection (37 CFR 1.129(a)) | |
| 149 | 710 | 249 | 355 | For each additional invention to be examined (37 CFR 1.129(b)) | |
| Other fee (specify) | | | | | |
| Other fee (specify) | | | | | |
| *Reduced by Basic Filing Fee Paid | | | | | |
| SUBTOTAL (3) | | | | | \$40 |

SUBMITTED BY

Typed or Printed Name Diagne E. Reed

Signature [Signature]

Date 7/27/01

Complete (if applicable)

Reg. Number 31,292
Deposit Account 18-0580



Attorney Dock t No. 9050-0053

| 18. CORRESPONDENCE ADDRESS | | | | | |
|---|-----------------------------|---|----------------|---|----------------|
| <input checked="" type="checkbox"/> Customer Number of Bar Code Label | | 23980 <small>(Insert Customer No. or Attach bar code label here)</small> | | <input type="checkbox"/> Correspondence address below | |
| Name | Dianne E. Reed | | | | |
| Address | REED & ASSOCIATES | | | | |
| | 800 Menlo Avenue, Suite 210 | | | | |
| City | Menlo Park | State | CA | Zip Code | 94025 |
| Country | USA | Telephone | (650) 330-0900 | Fax | (650) 330-0980 |
| Name (Print/Type) | Dianne E. Reed | Registration No. (Attorney/Agent) | | 31,292 | |
| Signature | <i>Dianne E. Reed</i> | | Date | 7/27/01 | |

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commission for Patents, Box Patent Application, Washington, DC 20231.

| CERTIFICATE OF MAILING OR TRANSMISSION | | | |
|--|----------------|-----------------|---------------|
| I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10 on the date indicated below and is addressed to "Commissioner for Patents, Box Patent Application, Washington, DC 20231." | | | |
| "Express Mail" Mailing Label No. | | Date of Deposit | July 27, 2001 |
| Name of Person Mailing Paper or Fee(Print/Type) | Sam Pen | | |
| Signature | <i>Sam Pen</i> | Date | 07-27-01 |

F:\Document\9050\0053\application xtl.wpd



Atty Dkt No. 9050-0053
PATENT

#111 Reg for
refund
08-28-03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
Leland F. WILSON et al.

Confirmation No.: 3484

Serial No.: 09/919,471

Group Art Unit: 1617

Filing Date: July 27, 2001

Examiner: San Min R. HUI

Title: AS-NEEDED ADMINISTRATION OF ORALLY ACTIVE ANDROGENIC AGENTS TO
ENHANCE FEMALE SEXUAL DESIRE AND RESPONSIVENESS

REQUEST FOR REFUND

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

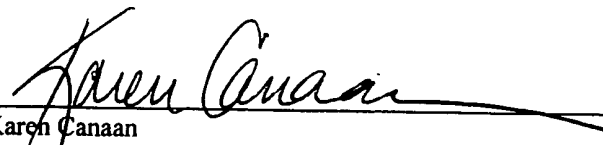
By way of this paper and the accompanying Utility Patent Application Transmittal and Fee Transmittal that were filed with the Office on July 27, 2001, applicants hereby request a refund on the \$410 large entity two-month extension of time fee charged to Deposit Account No. 18-0580 on July 14, 2003, pursuant to 37 CFR §§ 1.26(a) and 1.28(a). This application is entitled to small entity status, as stated on the enclosed Utility Patent Application Transmittal and Fee Transmittal. The error was made by applicants when the Amendment under 37 C.F.R. § 1.116 was fax-filed on July 14, 2003. The correct small entity two-month extension of time fee of \$205 should have been charged to the deposit account.

A copy of the assignment of the inventors to VIVUS Inc. filed with the United States Patent and Trademark Office on July 27, 2001 is also enclosed.

Please credit the \$205 refund to Deposit Account No. 18-0580.

Respectfully submitted,

By:


Karen Canaan
Registration No. 42,382

REED & EBERLE LLP
800 Menlo Avenue, Suite 210
Menlo Park, California 94025
(650) 330-0900 Telephone
(650) 330-0980 Facsimile

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ASSIGNMENT

JOINT

THIS ASSIGNMENT, by Leland F. Wilson and Peter Y. Tam (hereinafter referred to as the assignors), residing at Menlo Park, California, and Redwood City, California, respectively, witnesseth:

WHEREAS, said assignors have invented certain new and useful improvements described and claimed in an application for Letters Patent of the United States, entitled "AS-NEEDED ADMINISTRATION OF ORALLY ACTIVE ANDROGENIC AGENTS TO ENHANCE FEMALE SEXUAL DESIRE AND RESPONSIVENESS," having an oath or declaration executed on even date herewith; and

WHEREAS, VIVUS Inc. a corporation duly organized under and pursuant to the laws of Delaware, and having its principal place of business at 1172 Castro St., Mountain View, California 94040 (hereinafter referred to as the assignee) is desirous of acquiring the entire right, title and interest in and to said invention and said application for Letters Patent of the United States, and in and to any Letters Patent or Patents, United States or foreign, to be obtained therefor and thereon:


NOW THEREFORE, in consideration of One Dollar (\$1.00) and other good and sufficient considerations, the receipt of which is hereby acknowledged, said assignors have sold, assigned, transferred and set over, and by these presents do sell, assign, transfer and set over, unto the assignee, its successors, legal representatives and assigns, the entire right, title and interest in and to the above-mentioned invention, application for Letters Patent, and any and all Letters Patent or Patents in the United States of America and all foreign countries which may be granted therefor and thereon, and in and to any and all divisions, continuations, and continuations-in-part of said application, or reissues or extensions of said Letters Patent or Patents, and all rights under the International Convention for the Protection of Industrial Property, the same to be held and enjoyed by said assignee, for its own use and behoof and the use and behoof of its successors, legal representatives and assigns, to the full end of the term or terms for which Letters Patent or Patents may be granted, as fully and entirely as the same would have been held and enjoyed by the assignors, had this sale and assignment not been made.

AND for the same consideration, said assignors hereby covenant and agree to and with said assignee, its successors, legal representatives and assigns, that, at the time of execution and delivery of these presents, said assignors are the sole and lawful owners of the entire right, title and interest in and to said invention and the application for Letters Patent above-mentioned, and that the same are unencumbered and that said assignors have good and full right and lawful authority to sell and convey the same in the manner herein set forth.

AND for the same consideration, said assignors hereby covenant and agree to and with said assignee, its successors, legal representatives and assigns, that said assignors will, whenever counsel of said assignee, or the counsel of its successors, legal representatives and assigns, shall advise that any proceeding in connection with said invention, or said application for Letters Patent, or any proceeding in connection with Letters Patent for said invention in any country, including interference proceedings, is lawful and desirable, or that any division, continuation or continuation-in-part of any application for Letters Patent or any reissue or extension of any Letters Patent, to be obtained thereon, is lawful and desirable, sign all papers and documents, take all lawful oaths, and do all acts necessary or required to be done for the procurement, maintenance, enforcement and defense of Letters Patent for said invention, without charge to said assignee, its successors, legal representatives and assigns, but at the cost and expense of said assignee, its successors, legal representatives and assigns.

AND said assignors hereby request the Commissioner of Patents to issue said Letters Patent of the United States to said assignee as the assignee of said invention and the Letters Patent to be issued thereon for the sole use and behoof of said assignee, its successors, legal representatives and assigns.

Date: July 25, 2001


Leland F. Wilson

Date: July 25, 2001


Peter Y. Tam